

### **REMARKS**

The present invention is a method for scalding of slaughtered poultry, prior to plucking, wherein the poultry are shackled by their feet and an apparatus. The method includes conveying a conveyor through at least one scalding chamber while providing a controlled heated atmosphere of humid, hot air established by blowing steam at a bottom of one of the at least one scalding chamber, recirculating the air and directly blowing the air onto the slaughtered poultry by nozzles in the scalding chamber, and wherein a scalding period in one of the at least one chambers is determined by a length and path of the conveyor and by a capacity and/or speed of the conveyor and conveying the slaughtered poultry through the conveyor through two or more levels of one of the at least one scalding chamber past the nozzles.

At the outset, it should be noted that the Examiner has not issued an Office Action on the merits of pending claims 11-21 which were filed as part of a Preliminary Amendment. The undersigned has checked the Image File Wrapper to determine that in fact the Preliminary Amendment is present in the file.

In an attempt to further the prosecution, even though claims 11-21 have not been acted upon the merits, claims 11-21 are being amended to improve their form for reexamination, but not substantively amended to overcome the prior art. For reasons set forth below, the cited prior art does not pertain to the method for scalding of slaughtered poultry prior to plucking and an apparatus as recited respectively in independent claims 9 and 13.

Claims 1-8 have been rejected on grounds of indefiniteness which are not applicable to claims 9-21 which were filed in the original application by Preliminary Amendment. Accordingly, no response to this rejection is required.

The Examiner's indication of allowable subject matter of claims 2 and 5 is noted with appreciation. Claims 2 and 5 correspond to claims 10 and 15 in the of the Preliminary Amendment. Accordingly, it is submitted that those claims are patentable.

Claims 1, 3 and 6-8 stand rejected under 35 U.S.C. §102 as allegedly being anticipated by United States Patent 3,729,773 (Dillon). The Examiner reasons as follows:

Dillon teaches a method for washing and chilling eviscerated fowl which is structurally similar to the Applicant's claimed method for scalding of slaughtered poultry (emphasis added). More specifically, the method includes birds shackled by their feet while conveyed through a scalding chamber. The chamber is precisely controlled heated atmosphere of humid, hot air. The air is recirculated and blown directly onto the poultry. The scalding period is determined by the length and course of the conveyor. The chamber extends a relatively large height which extends through two or more levels. See Figure 2. Regarding claim 3, the water is heated to a temperature that scalds the poultry, and as such, this scalding temperature is believed to an extra high temperature. Further, the remaining claim language "for example in the range of approximately 85 degrees C" is vague and indefinite, such that it is not considered to be a positively claimed claim language.

The grounds of rejection for cancelled claims 1-8 are traversed for the following reasons with respect to the pending claims.

Dillon teaches a method for washing and chilling eviscerated fowl. Washing and chilling of eviscerated fowl has nothing to do with the claimed method for scalding of slaughtered poultry prior to plucking with the poultry being shackled by

their feet and the claimed apparatus. Each of independent claims 9 and 13 recite at least one scalding chamber including a controlled heated atmosphere of humid, hot air established by blowing steam at the bottom of one of the at least one scalding chambers followed by recirculating the air and directly blowing the air onto the slaughtered poultry by nozzles in the scalding chamber and the conveyor running through two or more levels of one of the at least one scalding chamber past nozzles.

A person of ordinary skill in the art would not consider Dillon's method and structure to be an analogous art to the claimed method of claims 9-12 and 22-26 since Dillon neither teaches a scalding chamber nor the method of treating the poultry therein.

The apparatus of claims 13-21 and 27 recite at least one scalding chamber including a conveyor conveys poultry extending past second nozzles for blowing humid, hot air directly on the poultry passing the second nozzles on the conveyor and first nozzles for blowing steam at the bottom on one of the at least one scalding chamber for producing the humid, hot air which is recirculated by the second nozzle; and wherein the conveyor in the scalding chamber extends through at least two levels therein past the second nozzle. Again, a person of ordinary skill in the art would not consider Dillon to be analogous art since Dillon does not disclose the claimed scalding chamber nor the claimed conveyor and first and second nozzles for blowing humid, hot air directly on the poultry and providing the humid, hot air which is recirculated by the second nozzles and wherein the conveyor in the at least one scalding chamber extends through at least two levels therein past the second nozzles.

Moreover, claims 9 and 13 and the claims dependent therefrom could not be properly rejected on grounds of anticipation based on "structural similarity." The

Examiner is required to give weight to each of the limitations in the claims. When weight is given to each of the limitations in the independent claims and claims dependent therefrom, none of the claims are anticipated.

Moreover, there is no basis in the record why a person of ordinary skill in the art would be led to modify the teachings of Dillon to arrive at the subject matter of the independent claims except by hindsight. The Examiner has not established on the record why a person of ordinary skill in the art would consider Dillon's chilling system to be analogous art nor why such a system would be modified by a person of ordinary skill in the art to achieve the claimed subject matter except by impermissible hindsight.

In view of the foregoing amendments and remarks, it is submitted that each of the claims in the application is in condition for allowance. Accordingly, early allowance thereof is respectfully requested.

To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. §1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (900.44376X00) and please credit any excess fees to such Deposit Account.

Respectfully submitted,

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